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8 **IN THE UNITED STATES DISTRICT COURT**  
9 **FOR THE EASTERN DISTRICT OF WASHINGTON**

10 **STARLA BRAHAM,**

11 **Plaintiff,**

12 **v.**

13 **AUTOMATED ACCOUNTS, Inc., a**  
14 **Washington Corporation; and Michelle**  
15 **Doe and John Doe husband and wife**  
16 **and marital composed thereof,**  
17 **Defendants,**

**NO. CV-10-385 EFS**

**DEFENDANTS STATEMENT OF**  
**FACTS**  
**IN SUPPORT OF DEFENDANTS'**  
**MOTION FOR SUMMARY**  
**JUDGMENT**

18  
19 This case arises from a debt owed by plaintiff Starla Braham to  
20 Deaconess Hospital. *Deposition of Starla Braham ("Braham Dep."), 21:10-*  
21 *23:2.*<sup>1</sup>

22  
23 1. In January 2008, Ms. Braham visited the emergency room at

24 <sup>1</sup> Excerpts attached to Declaration of Thomas M. Smith in Support of Defendants' Motion for Summary Judgment  
25 ("Smith Decl.") as Exhibit A. Numbers denote deposition page and line numbers.

1 Deaconess and received treatment for an injury she sustained at her  
2 workplace. *Braham Dep.*, 21:10-23:2.

3  
4 2. Ms. Braham did not pay the bill for her treatment. *Braham*  
5 *Dep.*, 23:16-23.

6  
7 3. Ms. Braham declined to pay the bill despite receiving letters  
8 from Deaconess requesting payment. *Braham Dep.*, 23:16-23.

9  
10 4. After its failed attempts to obtain payment from Ms. Braham,  
11 Deaconess referred the debt to defendant Automated Accounts, Inc.  
12 ("Automated Accounts") for collection. *Braham Dep.*, 23:4-9.

13  
14 5. Automated Accounts prides itself on being a professional, law-  
15 abiding, above-board collection company. *See Deposition of Michelle*  
16 *Bull* ("*Bull Dep.*") 33:20-24.<sup>2</sup>

17  
18 6. Automated Accounts impresses on its employees its aspiration  
19 to be the "white hat" amongst the "black hat" community of debt  
20 collection agencies. *Bull Dep.*, 33:20-24.

21  
22 7. Automated Accounts expects its employees to treat debtors  
23 with respect and has terminated employees who fail to do so. *Bull Dep.*,  
24 33:25-34:16.

25  
<sup>2</sup> Excerpts attached to Smith Decl. as Exhibit B.  
Defendants Statement of Facts

1 8. In late 2008, Automated Accounts contacted Ms. Braham to  
2 arrange payment on her debt to Deaconess. *Braham Dep.*, 20:23-  
3 21:18, 23:4-9; *Affidavit of Michelle Bull in Support of Defendants' Motion*  
4 *for Summary Judgment ("Bull Aff.")*.  
5

6 9. Ms. Braham spoke with defendant Michelle Doe, who works for  
7 Automated Accounts.<sup>3</sup> *Braham Dep.*, 20:23-21:8; *Bull Dep.*, 5:7-8.  
8

9 10. Ms. Braham acknowledged Ms. Doe's politeness on the  
10 telephone. *Braham Dep.*, 23:4-15.  
11

12 11. Ms. Doe is a "collector" for Automated Accounts. *Bull*  
13 *Dep.*, 13:10-12; *Bull Aff.*.  
14

15 12. Ms. Doe's duties include making calls to debtors (whom  
16 Automated Accounts requires employees to refer to as "consumers"),  
17 verifying account information, and handling credit reporting calls. *Bull*  
18 *Dep.*, 22:9-23:2.  
19

20 13. Ms. Doe does not work in Automated Accounts' legal  
21 department. *Bull Dep.*, 93:15-94:22.  
22

23 14. Ms. Doe freely admits she does not know precisely what  
24 happens after a claim is sent to the legal department. *Bull Dep.*, 93:15-  
25

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<sup>3</sup> Michelle Doe was deposed under her real name, Michelle Bull.  
Defendants Statement of Facts Page 3 of 13

1 94:22.

2  
3 15. If a consumer calls with a legal question, Ms. Doe refers  
4 the call to Automated Accounts' legal department. *Bull Dep.*, 42:18-22.

5 16. Ms. Doe's job duties include beginning the process of  
6 legal action against a consumer by requesting assignment of the debt.  
7  
8 *Bull Dep.*, 51:12-14; 62:3-20.

9 17. Ms. Doe is aware that legal action against a consumer  
10 can involve garnishment. *Bull Dep.*, 93:15-94:22.

11 18. Ms. Doe admits she is not familiar with the steps or  
12 procedures between the time she requests assignment of a debt and the  
13 time garnishment may occur. *Bull Dep.*, 93:15-94:22.

14 19. Ms. Braham initially agreed to pay \$50 per month toward  
15 her debt. *Braham Dep.*, 24:18-23.

16 20. Ms. Braham began making payments around October or  
17 November 2008. *Braham Dep.*, 26:23-24:5.

18 21. During one conversation between Ms. Braham and Ms.  
19 Bull in December 2008, Ms. Braham expressed concern to Ms. Bull  
20 about the possibility of her wages being garnished. Ms. Braham, not  
21 Ms. Bull, made this reference to garnishment. *Bull Aff.*

1                   22.       Ms. Bull assured Ms. Braham that as long as Ms. Braham  
2                   made the agreed-upon payments, Ms. Bull would not refer Ms. Braham's  
3                   debt for legal process. *Bull Aff.*

4                   23.       Ms. Bull did not mention garnishment in this  
5                   conversations. *Bull Aff.*

6                   24.       In February 2009, Ms. Braham spoke to Ms. Doe and  
7                   agreed to increase her debt payment to \$200 per month. *Braham Dep.,*  
8                   27:20-29:1.

9                   25.       Ms. Braham again concedes Ms. Doe was courteous on  
10                  the telephone. *Braham Dep., 28:12-17.*

11                  26.       Ms. Braham received a letter each month from Automated  
12                  Accounts telling her what she owed on her debt and reminding her  
13                  payment was due. *Braham Dep., 29:2-6.*

14                  27.       For several months, Ms. Braham made payments on her  
15                  debt by telephone. *Braham Dep., 29:2-14.*

16                  28.       Around August or September 2009, Ms. Braham began  
17                  making her debt payments late. *Braham Dep., 29:2-30:5; Bull Aff.*

18                  29.       In or about October 2009, Ms. Braham missed a debt  
19                  payment. *Braham Dep., 30:23-31:5; Bull Aff.*

1                   30.       When Automated Accounts tried to process this payment,  
2  
3 it was denied. *Bull Dep.*, 78:6-11.

4                   31.       After Ms. Braham's missed payment, Ms. Doe spoke to  
5  
6 Ms. Braham on November 2, 2009. *Bull Dep.*, 78:6-14; *Bull Aff.*

7                   32.       Ms. Braham took an antagonistic attitude toward Ms. Doe  
8  
9 in this conversation. *Bull Aff.*

10                  33.       Ms. Doe advised Ms. Braham she was behind in the  
11  
12 agreed-upon payments and advised Ms. Braham Automated Accounts  
13 would start its "legal process" to collect Ms. Braham's debt. *Bull Dep.*,  
14 78:6-14; *Bull Aff.*

15                  34.       Automated Accounts begins its legal process by  
16  
17 requesting assignment of the consumer's debt. *Bull Dep.*, 79:13-14.

18                  35.       After speaking to Ms. Braham on November 2, Ms. Doe  
19  
20 requested assignment of Ms. Braham's debt the same day she advised  
21 Ms. Braham she would begin the legal process—November 2, 2009.  
22 *Bull Dep.*, 79:15-24.

23                  36.       During their conversation on November 2, 2009, Ms.  
24  
25 Braham asked Ms. Doe if garnishment was part of the legal process.  
*Bull Dep.*, 81:7-21; *Bull Aff.*

1           37.       Ms. Doe answered that she believed garnishment was  
2 part of the legal process. *Bull Dep.*, 81:7-21.

3  
4           38.       Ms. Braham brought up the subject of garnishment in the  
5 November 2 conversation—Ms. Doe did not. *Bull Dep.*, 100:20-24; *Bull*  
6 *Aff.*

7  
8           39.       Ms. Doe attempted to answer Ms. Braham's question  
9 about garnishment. *Bull Dep.*, 83:11-16.

10           40.       Ms. Doe normally did her best to answer when  
11 consumers asked questions of her. *Bull Dep.*, 83:11-16.

12  
13           41.       Ms. Doe noted that it was extremely unusual for a  
14 consumer to ask about garnishment. *Bull Dep.*, 83:17-84:2.

15           42.       Ms. Doe did her best to correctly answer Ms. Braham's  
16 concern. *Bull Dep.*, 83:11-16.

17  
18           43.       Ms. Doe understood garnishment to be part of legal  
19 action against a debtor and believed she would have been lying to Ms.  
20 Braham had she responded otherwise. *Bull Dep.*, 81:17-82:9; 98:11-15.

21  
22           44.       Ms. Doe believed Ms. Braham understood the answer to  
23 her question about garnishment. *Bull Dep.*, 81:17-82:9; *Bull Aff.*

24           45.       Ms. Doe never, at any time during the November  
25

1 2conversation, told Ms. Braham Automated Accounts was going to  
2 garnish Ms. Braham's wages. *Bull Dep.*, 101:21-102:4.

3  
4 46. Ms. Braham claims Ms. Doe said Ms. Braham's wages  
5 would be garnished. *Braham Dep.*, 41:19-42:11; 48:21-49:4.

6  
7 47. Ms. Braham also admits those were not Ms. Doe's exact  
8 words. *Braham Dep.*, 48:21-49:4.

9  
10 48. Ms. Doe testifies that Ms. Braham first broached the  
11 subject of garnishment and that Ms. Doe responded to Ms. Braham's  
12 question about garnishment. *See Bull Dep.*, 81:7-21.

13  
14 49. No one but Ms. Braham and Ms. Doe witnessed their  
15 conversations. *Braham Dep.*, 42:5-43:12; *Deposition of Larry Braham*  
16 (*"L. Braham Dep."*), 32:6-8.<sup>4</sup>

17  
18 50. Ms. Braham lacks any written record of her allegation that  
19 Automated Accounts threatened to garnish her wages. *Braham Dep.*,  
20 42:19-22.

21  
22 51. Ms. Doe documented the November 2, 2009 conversation  
23 when it occurred, including Ms. Braham's understanding of Ms. Doe's  
24 answer to her question about garnishment. *See generally Bull Dep.*,  
25

<sup>4</sup> Excerpts attached to Smith Decl. as Exhibit C.  
Defendants Statement of Facts



1 78:6-82:12.

2  
3 52. To document her conversation with Ms. Braham, Ms. Doe  
4 used a computer program that does not allow alteration or amendment  
5 of her notes after she makes them. *Declaration of Scott Milsap in*  
6 *Support of Defendants' Motion for Summary Judgment ("Milsap Decl.")*.  
7

8 53. On November 2, 2011, after her last conversation with  
9 Ms. Doe, Ms. Braham called Ms. Doe's supervisor, Mario Ruiz, while  
10 visiting the home of her friend, Tamara Ramm. *Braham Dep., 55:4-*  
11 *56:10; 58:9-59:23; Bull Dep., 15:20-21; Affidavit of Mario Ruiz in Support*  
12 *of Defendants' Motion for Summary Judgment ("Ruiz Aff.")*.  
13

14 54. As he spoke with Ms. Braham, Mr. Ruiz heard a loud  
15 male voice in the background telling her that Automated Accounts could  
16 not garnish her wages without obtaining a judgment first. *Ruiz Aff.*  
17

18 55. It was apparent to Mr. Ruiz that the man in the  
19 background on Ms. Braham's end of the conversation, whom Mr. Ruiz  
20 presumed to be Ms. Braham's husband, Larry Braham, was coaching  
21 Ms. Braham. *Ruiz Aff.*  
22

23 56. Mr. Ruiz heard the man say to Ms. Braham that she had  
24 been consistent in making her payments to Automated Accounts, that  
25

1 Automated Accounts had no right to mention garnishment without a  
2 judgment in place, and that Ms. Braham knew she had 90 days from any  
3 missed payment before legal action could commence against her. *Ruiz*  
4 *Aff.*

5  
6 57. From what he heard, Mr. Ruiz believed Ms. Braham  
7 received correct information about when garnishment could occur on  
8 that date from the man speaking to her in the background. *Ruiz Aff.*

9  
10 58. Following Ms. Braham's call to Mario Ruiz, Ms. Ramm  
11 tried to reassure Ms. Braham that garnishment could not happen  
12 immediately or automatically. *Braham Dep., 58:9-59:23.*

13  
14 59. Ms. Ramm advised Ms. Braham to seek advice from an  
15 attorney. *Braham Dep., 58:12-14.*

16  
17 60. Ms. Braham at that time knew an attorney who had  
18 represented her in a previous matter. *Braham Dep., 17:21-18:8.*

19  
20 61. Ms. Braham did not seek the advice of an attorney until  
21 January 2010, two months after the November 2 call. *Braham Dep.,*  
22 *70:7-17.*

23  
24 62. In January 2010, Ms. Braham received a letter from  
25 Automated Accounts informing her that her debt remained unpaid.

1 *Braham Dep.*, 70:7-17.

2  
3 63. The January 2010 letter said nothing about garnishment.  
4 *Braham Dep.*, 50:10-24.

5 64. After the last conversation between Ms. Braham and Ms.  
6 Doe on November 2, Ms. Braham claims to have suffered emotional  
7 distress. *Braham Dep.*, 49:21-51:1.

8  
9 65. Ms. Braham's husband was unemployed in the fall of  
10 2009. *L. Braham Dep.*, 8:11-9:8; 10:13-11:16.

11  
12 66. The Braham family faced a general shortage of income in  
13 the fall of 2009 unrelated to the Deaconess debt. *L. Braham Dep.*, 8:11-  
14 9:8; 10:13-11:16.

15  
16 67. Ms. Braham's husband conferred with her once or more  
17 per month when paying the family's bills. *L. Braham Dep.*, 8:11-9:8;  
18 12:19-13:3.

19  
20 68. Mr. Braham saw his wife experience stress over bill  
21 paying in general. *L. Braham Dep.*, 8:11-9:8; 12:19-13:3.

22  
23 69. Mr. Braham testified that Ms. Braham's outward  
24 appearance showed no unusual symptoms of stress. *See generally L.*  
25 *Braham Dep.*, 37:12-51:2.

1           70.       Mr. Braham concedes that a number of factors, including  
2 economic troubles unrelated to fears of garnishment, produced the  
3 same "worried look" on her face. *L. Braham Dep., 47:25-48:25.*

4           71.       Mr. Braham confirmed that Ms. Braham never visited a  
5 doctor because of her dealings with Automated Accounts. *L. Braham*  
6 *Dep., 54:11-14.*

7           72.       Ms. Braham concedes she will not seek damages relating  
8 to credit reporting. *Braham Dep., 87:19-93:9, 93:13-16.*

9           73.       Ms. Braham is a high school graduate and attending  
10 college and had above average scores on SAT testing. *Braham Dep., 5:*  
11 *18- 6:12.*

12  
13  
14  
15  
16  
17 RESPECTFULLY SUBMITTED this 16<sup>th</sup> day of December, 2011.

18                               Respectfully submitted,

19  
20  
21                               s/Thomas M. Smith  
22                               Thomas M. Smith, WSBA #0687  
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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of December, 2011, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Kirk D. Miller: kmiller@millerlawspokane.com

and I hereby certify that I have mailed by United States Postal Service the document to the following non-CM/ECF participant: n/a

/s/ Thomas M. Smith